REGULATION No. I OF 1886.

(PASSED ON THE 15TH DAY OF MARCH 1886.)

A Regulation introducing into the territories of Mysore the Code of Criminal Procedure, Act X of 1882, in supersession of Act X of 1872, as amended by Act XI of 1874.

WHEREAS it is expedient to apply to the territories of Mysore Act X of 1882 of the Governor General of India in Council, His Highness the Maharaja is pleased to enact that the aforementioned Act shall have the force of law in the territories of Mysore subject to the omissions, alterations and additions hereunder specified, namely :—

1. All provisions relating to Presidency Towns, to the Courts of Presidency Magistrates, to the High Courts of Judicature established by Royal Charter, to the Chief Court of the Punjab, to the Courts of the Recorder of Rangoon and the Judicial Commissioner of British Burma, and to the appointment, suspension, removal and the powers of the Justices of the Peace, and all provisions expressly relating to specified particular places, Courts, Offices or Local Governments outside the territories of Mysore, shall be omitted.

Nothing herein contained shall be deemed to confer any jurisdiction* in proceedings against European British subjects.

2. All provisions requiring the sanction of the Governor General in Council to an Act of the Local Government, or attaching any function to the Governor General in Council, shall be omitted.

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*As to this, see the following Notification of the Mysore Government No. 20, dated the 7th April 1886 :—

"With reference to Regulation I of 1886, introducing into the territories of Mysore the Code of Criminal Procedure, Act X of 1882, and in accordance with the decision of His Excellency the Viceroy and Governor General of India in Council communicated in letter No. 482-1895, dated 4th March 1886, from the Officiating Resident in Mysore to the Dewan of Mysore, His Highness the Maharaja is pleased to notify that until further orders,

(*a*) the expression "jurisdiction" in section 1 of the Regulation shall be held to mean jurisdiction to enquire into or try a charge, and

(*b*) that Police Officers and Magistrates in Mysore may exercise with respect to European British subjects the same powers as may be exercised with respect to European British subjects by Police officers and by Magistrates who are not Justices of the Peace respectively in places in British India beyond the limits of the Presidency Towns."

Sections 3-17.

3. In sections 28, 29, 106, 206, 207, 213, 216, 217, 218, 226, 227, 337, 347, 348, 421, 463, 465, 469, 478, 479, 487, 499, 516, 517 and 532, all provisions relating to the High Court shall be omitted as if no reference had been made in such sections to such High Court.

4. For the words "British India," read "the territories of Mysore."

5. For the words "any Local Government" or "the Local Government" or "every Local Government" or "the same Local Government," read "the Government of Mysore."

6. For "District Superintendent" and "Assistant District Superintendent," read "Deputy or Assistant Commissioner."

7. For "Collector" read "Deputy Commissioner."

8. For the words "Her Majesty" read "His Highness the Maharaja of Mysore."

9. For the words "Her Majesty's Army" read "His Highness the Maharaja's Military Forces."

10. In sections 1 and 2 for "January 1882" read "July 1886."

11. In section 1, paragraph 2, for the clauses (*a*), (*b*), (*c*), (*d*) and (*e*), substitute "Village Police Officers in the territories of Mysore."

12. In section 3, omit the words "and the expression 'Magistrate of Police' shall be deemed to mean 'Presidency Magistrate.'"

13. For the words "the High Court" or "any High Court" or "a High Court" or "High Court," read "the Chief Court;" and for clause (*i*) of section 4, substitute the following:—

"The Chief Court shall mean the highest Court of criminal appeal or revision within the territories of Mysore."

14. In clause (*u*) of section 4, omit the words "a vakil and an attorney."

15. In section 6, paragraph 1, for "five" read "four".

16. In section 7, for "Every Province" read "The Province."

17. For section 30, the following shall be substituted:—

"The Government of Mysore may, notwithstanding anything contained in section 29, invest the District Magistrate with power to try as a Magistrate all offences not punishable with death."

Sections 18-27.

18. In section 45, for the words "Court of Wards" read "District Court."

19. In section 54, omit the sixth clause.

20. In section 132, for the words "Governor General in Council," substitute "Government of Mysore."

21. For the first paragraph of section 164, read "Any Magistrate may record any statement or confession made to him in the course of an investigation under this Chapter, or at any time afterwards before the commencement of the inquiry or trial, provided that such Magistrate has not acted as a Police Officer in the investigation."

22. In section 174, for paragraph 4, substitute the following:—

"Investigations under this section may be made by the Village Patel, who shall then report the result to the nearest Magistrate authorized to hold inquests."

23. In section 186, omit the words "whether within or without British India."

24. For section 188, substitute the following section:—

"188. When any subject of His Highness the Maharaja of Mysore commits an offence at any place beyond the territories of Mysore, he may be dealt with in respect of such offence as if it had been committed at any place within the territories of Mysore at which he may be found.

Provided that he has not been already tried for the same offence at the place where it was committed;

and provided that, if it be an offence for which extradition can be demanded by the British Government, the Government of Mysore shall in the first instance refer to the British Resident in Mysore to ascertain whether the British Government waives its right to demand the surrender of the accused."

25. In section 189, omit the words "the Political Agent or."

26. Omit sections 190 and 194.

27. To section 191 the following shall be added, namely:—

"When a Magistrate takes cognizance of an offence under clause (*c*), the accused or, when there are several persons accused, any one of them, shall be entitled to require that the case shall, instead of being tried by such Magistrate, be either transferred to another Magistrate or committed to the Court of Session."

Sections 28-45.

28. In section 197, omit the words "the Government of India or," and for the words "the Government having power to order his removal" read "such Government."

29. In sections 211, paragragh 2, omit the words commencing with "and where the accused" up to the end of the section.

30. Omit section 214.

31. In section 215 omit the words and figures "or section 214."

32. In section 216, omit the 2nd paragraph.

33. In section 320, for clause (*c*) substitute "Deputy Commissioners."

34. In section 341, omit the words "in the case of a Court other than a High Court."

35. Omit section 266, section 267, section 273, the first paragraph of section 274, the third proviso to section 276, paragraph 3 of section 277, section 296, section 305, section 308, section 311, section 312, section 313, section 314, section 315, section 316, section 317, section 318, section 333, section 334, section 335, section 336, section 362, section 365 and section 539.

36. In section 344, paragraph 3, omit "other than a High Court."

37. In section 408, omit proviso (*b*).

38. Omit section 434.

39. In section 439, omit the words "applies to an entry made under section 273 or."

40. Omit sections 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458 and 459.

41. In section 462, omit the words and figures "section 451 or."

42. In section 463, omit the words "European British subjects" after the word "against."

43. In section 477, omit the words "Subject to the provisions of section 444."

44. In section 480, omit paragraph 2

45. Omit section 491.

Sections 46-49.

[a] **46.** In section 503, for paragraph 2, substitute the following:—

"When the witness resides in British India, the commission may be issued to any Court competent to execute it under section 19 of the Foreign Jurisdiction and Extradition Act XXI of 1879.

"All persons residing in the territories of Mysore, whose attendance may be required by an officer executing a commission for the examination of witnesses issued to him by a Criminal Court in British India, under the second paragraph of section 503 of the Code of Criminal Procedure, Act X of 1882, shall be bound to appear before such officer, and answer truthfully all questions which he may put to them for the purpose of executing such commission, and shall be liable to the same penalties for default in this respect as they would be liable to had their attendance been required by a Criminal Court within the territories of Mysore."

47. Omit section 504.

48. (1) In section 526, omit the words and figures "Except as provided in section 267," and insert the following after clause (*d*):—

"or

"(*e*) that such an order is expedient for the ends of justice."

(2) In the same section, after clause (3) the following shall be inserted, namely:—

"(4) that an accused person be committed for trial to itself or to a Court of Session."

49. After section 526 the following section shall be inserted, namely:—

"Adjournment on application under section 526."

"526 A. If, in any criminal case or appeal, before the commencement of the hearing, the public prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending, his intention to make an application under section 526 in respect of the case, the Court shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon, before the accused is called on for his defence, or, in the case of an appeal, before the hearing of the appeal."

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[a] Section 46 was substituted for the original section by Regulation I of 1888, section 1.

Sections 50-55.

50. Omit section 527.

51. To section 528 the following shall be added, namely:—

"A Magistrate making an order under this section shall record in writing his reason for making the same."

52. For section 553, substitute the following:—

"With the previous sanction of the Government of Mysore, the Chief Court may, from time to time, make rules for the inspection of the records of subordinate Courts and it may, with like sanction, from time to time—

(*a*) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts;

(*b*) frame forms of every proceeding in the said Courts for which it thinks that a form should be provided;

(*c*) make rules for regulating its own practice and proceedings, and the practice and proceedings of all Criminal Courts subordinate to it; and

(*d*) make rules for regulating the execution of warrants issued under this Code for the levy of fines.

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

All rules made under this section shall be published in the official Gazette."

53. In section 554, omit the words and figures from the commencement to "section 15."

54. The notifications of the Government of India, Foreign Department, No. 143 J., dated 18th July 1872, in so far as it relates to the Code of Criminal Procedure, Act X of 1872, and No. 139 J., dated 24th July 1874, and para 1 of No. 27 I. J., dated 23rd January 1880, are hereby repealed from the first day of July 1886.

[a] **55.** In the last paragraph of section 31 of the Code of Criminal Procedure, 1882, for the words "any sentence of imprisonment for a term exceeding three years" the words "any sentence of imprisonment for a term exceeding four years and any sentence of transportation" shall be substituted.

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[a] Section 55 was inserted by Regulation I of 1888, section 2.

Sections 56-61.

Higher powers of certain District Magistrates.

[a] **56.** For section 34 of the same Code, the following shall be substituted, namely :—

"34. The Court of a District Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years, or of imprisonment for a term exceeding seven years; but any sentence of imprisonment for a term exceeding four years and any sentence of transportation shall be subject to confirmation by the Sessions Judge."

[a] **57.** In section 110 of the same Code, for the words "Sub-Divisional Magistrate or Magistrate of the 1st class" the words "or Sub-Divisional Magistrate, or a Magistrate of the 1st class" shall be substituted.

[a] **58.** In section 162 of the same Code, the word "shall" shall be inserted before the words "be used."

[a] **59.** In section 173 of the same Code, the following shall be substituted for the second paragraph, namely :—

"Where a superior officer of Police has been appointed under section 158, the report shall, in any case in which the Government of Mysore by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation."

[a] **60.** For the second paragraph of section 269 of the same Code, the following shall be substituted, namely :—

"When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury."

[a] **61.** For section 398 of the same Code, the following shall be substituted, namely :—

Saving as to sections 396 and 397.

"398. (1) Nothing in section 396 or section 397 shall be held

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[a] Sections 56 to 61 were inserted by Regulation I of 1888, section 2.

to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

"(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is, after its execution, to undergo a further substantive sentence, or further substantive sentences of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences."

[a] **62.** (1) For the third paragraph of section 401 of the same Code, the following shall be substituted, namely:—

"If any condition on which a sentence has been suspended or remitted is, in the opinion of the Government of Mysore, not fulfilled, the Government may cancel the suspension or remission; and thereupon the person in whose favor the sentence has been suspended or remitted may, if at large, be arrested by any Police officer without warrant, and remanded to undergo the unexpired portion of the sentence."

(2) After the third paragraph of the same section, the following shall be inserted, namely:—

"The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favor the sentence is suspended or remitted, or one independent of his will."

[a] **63.** After section 475 of the same Code, the following sections shall be inserted, namely:—

"475. A. The Government of Mysore may direct that any person whom the Government has ordered under this Chapter to be confined in a lunatic asylum, jail or other place of safe custody shall be removed from the place where he is confined to any lunatic asylum, jail or other place of safe custody in the territories of Mysore.

Power of Government to order criminal lunatics confined by its order to be removed from one place to another.

"475. B. The Government of Mysore may empower the officer in charge of the Jail in which a person is confined, under the provisions of section 466 or section 471, to discharge all or any

Power of Government to relieve Inspector General of certain functions.

[a] Sections 62 and 63 were inserted by Regulation I of 1888, section 2.

of the functions of the Inspector General of Prisons, under section 472, section 473, or section 474."

[a] **64.** (1) For the first sentence of section 495 of the same Code, the following shall be substituted, namely :—

"Any Magistrate enquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of Police below a rank to be prescribed by the Government of Mysore in this behalf."

(2) After the last sentence of the same section, the following shall be added, namely :—

"An officer of Police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted."

[a] **65.** In section 510 of the same Code, for the word "the" before the words "Chemical Examiner," where those words first occur, the word "any" shall be substituted.

[a] **66.** After section 541 of the same Code, the following shall be inserted, namely :—

Removal to criminal jail of accused or convicted persons who are in confinement in civil jail, and their return to the civil jail.

"541 A. (1) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

"(2) When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail unless either—

(*a*) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure as applied to Mysore by Regulation II of 1884, or

(*b*) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure as applied to Mysore by Regulation II of 1884."

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[a] Sections 64 to 66 were inserted by Regulation I of 1888, section 2.

Sections 67-69.

[a] **67.** After section 558 of the same Code, the following section shall be added, namely :—

"559. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property." Officers concerned in sales not to purchase or bid for property.

[a] **68.** In Schedule II of the same Code, between the two lines of entries against section 211 of the Indian Penal Code, the following shall be inserted, namely :—

Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
If offence charged be punishable with imprisonment for seven years.	Do	Do	Do	Do	Imprisonment of either description for seven years, and fine.	Court of Session or Magistrate of the 1st Class.

[a] **69.** In the same Schedule, for section 225 A, and the line of entries against that section, the following shall be substituted, namely :—

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
225 A	Omission to apprehend or sufferance of escape, on part of public servant in cases not otherwise provided for :—						
	(*a*) in case of intentional omission or sufferance.	Shall not arrest without warrant.	Do	Bailable.	Do	Imprisonment of either description for three years, or fine, or both.	Court of Session or Magistrate of the 1st Class.
	(*b*) in case of negligent omission or sufferance.	Do	Summons	Do	Do	Simple imprisonment for two years, or fine, or both.	Magistrate of the 1st or 2nd Class.
225 B	Resistance or obstruction to lawful apprehension or escape or rescue, in cases not otherwise provided for.	May arrest without warrant.	Warrant	Do	Do	Imprisonment of either description for six months, or fine, or both.	Ditto.

[a] Sections 67 to 69 were inserted by Regulation I of 1888, section 2.

Sections 70-71.

[a] **70.** In the part of Schedule III of the same Code entitled 'IV. *Ordinary powers of a Sub-Divisional Magistrate*,' the following shall be inserted after the second article, namely:—

"(2A) Power to require security for good behaviour, section 110."

[a] **71.** In the definition of "Officer in charge of Police station" in section 4, clause (*o*), of the same Code, there shall be substituted for the word "therefrom" the words "from the station-house" and for the words "present at the Police station" the words "present at the station-house."

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[a] Sections 70 and 71 were inserted by Regulation I of 1888, section 2.